

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-20076

JERRY MCADOO,

Defendant.

OPINION AND ORDER DECLINING TO REDUCE SENTENCE

The matter is before the court on a determination for a possible reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2), which was raised by Defendant's pro se motion filed on December 19, 2011. The court appointed the Federal Defender's Office "to determine eligibility, confer with the Probation Department and the U.S. Attorney's Office, and gather the pertinent information to assist the court in expeditiously resolving any pending or intended 18 U.S.C. § 3582(c) motions." (3/13/12 Order at 1.) The probation department released a memorandum, which was sent to the court with copies to Defendant's attorney and the Government. The memorandum sets forth that Defendant is ineligible for a sentence reduction because, even if the new guidelines were applied, Defendant's guideline range would not change. Defendant's attorney did not dispute this memorandum or put any additional information before the court.

A district court may reduce a defendant's sentence if modification is authorized by statute. *United States v. Ross*, 245 F.3d 586 (6th Cir. 2001). Under 18 U.S.C. § 3582(c)(2), a court may reduce the term of imprisonment "in the case of a defendant who has been sentenced . . . based on a sentencing

range that has subsequently been lowered by the Sentencing Commission,” provided that “such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2). Because Defendant’s sentencing range was not “subsequently” lowered after his sentence, he is not eligible for a reduction under § 3582(c)(2).

Accordingly,

IT IS ORDERED that the court DECLINES to issue a sentencing modification, and the matter is deemed closed.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: August 13, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 13, 2013, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522